

**MINUTES OF A MEETING OF
THE LEMON GROVE CITY COUNCIL**

September 6, 2016

The City Council also sits as the Lemon Grove Housing Authority, Lemon Grove Sanitation District Board, Lemon Grove Roadway Lighting District Board, and Lemon Grove Successor Agency

Call to Order

Members present: Mayor Mary Sessom, Mayor Pro Tem George Gastil, Councilmember Jerry Jones, Councilmember Jennifer Mendoza, and Councilmember Racquel Vasquez.

Members absent: None.

City Staff present: Lydia Romero, City Manager, David DeVries, Development Services Director; Daryn Drum, Division Fire Chief; Mike James, Public Works Director; Lt. May, Sheriff's Department; Miranda Evans, Assistant Planner; and Laureen Ryan Ojeda, Administrative Analyst; Michael Wapner, City Attorney.

Changes to the Agenda

Presentations

Lydia Romero introduced Interim Fire Chief Greg McAlpine.

Mayor Sessom presented the September Disaster Preparedness Proclamation.

Public Comment

John L. Wood commented on vehicle speeding and a large semi-truck accessing Central Avenue, and flag illumination at the car dealership.

Karen Clayton commented the treatment of animals at pet stores and requested that the City Council adopt an ordinance banning pet stores that sell animals.

1. Consent Calendar

A. Approval of City Council Minutes

August 2, 2016 – Regular Meeting with August 10, 2016 Adjourned meeting

August 16, 2016 – Regular Meeting

B. Ratification of Payment Demands

C. Waive Full Text Reading of All Ordinances and Resolutions on the Agenda

D. Amend Fiscal Year 2016/17 Serious Traffic Offender Program (STOP) Budget

E. Stormwater Professional Services Agreement with D-MAX Engineering, Inc.

F. Addendum No. 2 with Nolte Vertical 5 for Construction Support Services on the Lemon Grove Avenue Realignment Project

G. Award a Contract to Weathermatic for the Irrigation Controller Replacement Project

Mike James noted that an amendment is need to the contract amount for item No. 1.F from \$572,277.00 to \$672,277.00.

Action: Motion by Councilmember Jones, seconded by Mayor Pro Tem Gastil, to approve the Consent Calendar passed, by the following vote:

Ayes: **Sessom, Gastil, Jones, Mendoza, Vasquez**

Resolution No. 2016-3458: Resolution of the City Council of the City of Lemon Grove, California Amending the City of Lemon Grove Budget for Fiscal Year 2016-17 and Authorizing Expenditures Thereto

Resolution No. 2016-3459: Resolution of the City Council of the City of Lemon Grove, California Approving an Agreement for Professional Services with D-Max Engineering, Inc. for Stormwater Services

Resolution No. 2016 – 3460: Resolution of the City Council of the City of Lemon Grove Approving Addendum No. 2 with Nolte Vertical 5 to Provide Construction Support Services on the Lemon Grove Avenue Realignment Project

Resolution No. 2016 – 3461: Resolution of the City Council of the City of Lemon Grove, California Awarding a Contract to Weathermatic for the Irrigation Controller Replacement Project

2. Public Hearing to Consider an Appeal AA1-600-0002 of the Development Services Director Determination Regarding the Denial of a Request to Install Nine Bedrooms (Room addition and Remodel) to an Existing Five Bedroom House and to Permit the Operation of a Boardinghouse Located at 2545 Crestline Drive in the Residential Low/Medium Zone

David De Vries explained that the purpose of this appeal is to determine whether or not a boardinghouse business, consisting of 14 bedrooms rented separated with meals provided on-site should be allowed within the Residential Low/Medium Zoning District and whether the proposed land use is compatible with the Low/Medium Density Residential Land Use Designation which is principally designated for single-family detached housing.

The process for land use decisions begins with the General Plan. The General Plan Land Use Designation for this property is Low/Medium Density Residential, which primarily allows for detached houses and accessory dwelling units, day cares, open space, public facilities, and home businesses which are compatible with the surrounding neighborhood.

The corresponding zones are established to prevent conflicting land uses from being located next to each other or within the vicinity, specifically: to promote, protect and preserve the public health, safety, peace, comfort and general welfare. The subject property is located in the Residential Low/Medium Zone which permits and conditionally permits single-family dwellings, accessory rental dwelling units, senior citizen housing, daycares, residential care facilities, parks, playgrounds, churches, schools, and public service and utility structures and facilities.

The Development Services Director determined the appellant's request is not compatible with the property's land use designation and zoning district. The surrounding land uses are almost entirely detached single-family dwellings consisting of five bedrooms or less. A 2,300 sq. ft. house with 14 bedrooms being rented individually is not compatible with the character of a single-family residential neighborhood.

Mr. De Vries noted that Heartland Fire and Rescue and the County Sheriff's Department have had numerous calls for service at this property within the last year (approximately 48 and 87 respectively). Staff has received complaints from neighbors about tenants at the subject property trespassing on the neighbors' properties and asking for help.

The property owner has a history of construction without permits, therefore creating safety concerns on-site. The land use has negatively affected the integrity of the neighborhood and the public health, safety, peace, comfort and general welfare.

The Municipal Code further defines a dwelling and boardinghouse as follows:

“Dwelling” means a building, or portion thereof, designed for or occupied exclusively for residential purposes, but not including hotels, motels, or boardinghouses.

“Boardinghouse” means a dwelling or part thereof (not residential care facilities), where lodging with or without meals is provided for compensation. The boardinghouse shall have no more than five guest rooms (without separate cooking facilities), nor accommodate more than ten persons total. Lodging shall be provided for a time period of more than thirty days.

Based on evidence provided by the applicant, research online, site inspections, and conversations with the appellant and site manager, the appellant intends to rent, and is currently renting the rooms individually with no supervised care with two meals a day provided to the tenants. The Director’s determination is that the proposed land use is most consistent with the definition of a boardinghouse because lodging is provided for compensation and meals are provided on-site. The proposed land use is not a residential care facility because 24-hour supervision is not provided on-site. The definition of dwelling exempts boardinghouses and therefore cannot be permitted in the zoning district the subject property is located in.

The Municipal Code is constructed as a restrictive code and it identifies only the uses that are allowed by right or by discretionary permit. Where the Municipal Code is silent or a particular use does not meet the functional and/or operational characteristics of an identified allowable use, that use is prohibited. Here, the appellant’s business of renting units to 14 separate residents in what was originally a five-bedroom single-family home is not listed as a permitted use.

Should the City Council find that the appellant’s use of the property is not compatible with the zoning district and that the site is being used as a boardinghouse, the City Council may uphold the decision of the Development Services Director, further denying the land use request and related building permit request. Should the City Council find that the appellant’s use of the property is compatible with the zoning district and that the site is not being used as a boardinghouse and is a single-family dwelling, per the appellants’ request, then the City Council may reverse the decision of the Development Services Director and approve the land use and related building permit request.

If the City Council denies the appeal and upholds the Director’s denial of the permit application, then the property would be required to be vacated and permits to demolish the unpermitted room additions and garage conversion would be required. Outstanding code enforcement fees with late payment and interest penalties would be required to be paid. The appellant will be allowed 90 days from the date of denial to vacate the subject property and correct the unpermitted construction prior to further code enforcement action commencing.

If the City Council upholds the appeal and reverses the Director’s denial, then the appellant bears the burden of proof to provide appropriate evidence to overturn the Director’s determination. The building permit request for an additional nine bedrooms would be allowed to be permitted based on a determination by the City Council that the appellant’s building permit request maintains the property as a single-family dwelling (as requested by the appellant) and the operation of rooms rented separately with meals provided on-site would be allowed to continue with a finding that the proposed use does not impact the public health, safety, peace, comfort and general welfare. Outstanding code enforcement fees with late payment and interest penalties would be required to be paid. The appellant will be allowed 90 days from the date of approval to obtain final building permits for the nine bedroom addition on the subject property prior to further code enforcement action commencing.

In addition, there could be further enforcement based on Building and Fire Code violations resulting from the unpermitted construction. The facility has inadequate fire suppression systems, which is a serious public safety concern.

Mayor Sessom opened the public hearing.

Tim Hutchinson, the appellant - City Redevelopment and Jason Turner, attorney for City Redevelopment, spoke in favor the project and were available to answer questions.

Public Speaker(s)

Brenda Hammond commented about the project.

The following citizens spoke in favor of the project:

Vince Ramos
Andrea Reyes
Risa Demetrio
Alice Bushotz
John Mclyer

The following citizens spoke in opposition to the project:

Fernando Mendez
Clara Harris
Nancy Henry
Adrienne Gonzalez
Dawn Herdon
David Mendez
Pierina Bellachio
James Floyd
Melanie Lucero
Matt Canery
Ricardo Tynan
Obdulia Galvan
Charles Hensley
Vicky Patton
Jose Rocha
Arlene James
Denise Jeschke
Sandra Goheen
Penny Martinez

Action: Motion by Mayor Sessom, seconded by Councilmember Jones, to close the public hearing and adopt the resolution upholding the decision of the Development Services Director denying the request to install nine bedrooms to an existing five bedroom house and to permit the operation of a boardinghouse passed, by the following vote:

Ayes: Sessom, Gastil, Jones, Mendoza, Vasquez

3. Guidelines for Community input to City Council

Mayor Sessom brought up a discussion for guidelines for City Council members when there are Advisory Committees and other committees that City Council is sponsoring; do we need a policy about whether Council Members should be present and if so how many, or does City Council even need a policy.

Councilmember Vasquez left the meeting at 8:15 p.m. and returned at 8:30 p.m.

After discussion, the City Council does not want a formal policy regarding attending City sponsored community meetings. On a case by case basis the City Manager will work with the City Council on which City sponsored meetings city council attendance is warranted.

Public Speaker(s)

There were no requests from the public to speak.

City Council Oral Comments and Reports on Meetings Attended at the Expense of the City. (GC 53232.3 (d))

Councilmember Jones attended a finance committee meeting for Metro Wastewater, a Metro TAC Meeting, SANDAG transportation, and East County Chamber of Commerce Legislative meetings.

Councilmember Mendoza attended the Downtown Village Specific Plan community meeting.

Mayor Pro Tem Gastil attended an East County Economic Development Council meeting, San Diego Taxpayers Association Pension Workshop, wanted to note that the Mexican Consulate at the Lemon Grove Library with a mobile Consulate, Black American Political Association of America Breakfast, Pop-up for the Downtown Village Specific Plan, and the Hug a Cop Event,

Councilmember Vasquez attended Heartland Communications Facility Authority and Downtown Village Specific Plan community meeting.

Mayor Sessom attended an Airport Authority meeting and congratulated Management Analyst, Malik Tamini, for how he handled an upset resident at a meeting the mayor attended on storm water issues.

City Manager and Department Director Reports

David De Vries commented on boarding houses and conditional use permits in Lemon Grove and on the DV workshop.

Mike James reported that North Avenue is closed and the groundbreaking for the realignment project will be on September 8th at 1:00 p.m.

Closed Session

Conference with Legal Counsel – Existing Litigation (§ 54956.9)

Case No: 37-2016-00011529-cu-bc-ctl Meek-Barrios, LLC v Adams-Garbiras Developers, LLC

Conference with Legal Counsel - Initiation of litigation pursuant to paragraph (4) of Subdivision (d) of Section 54956.9:

One Case

Closed Session Report: No reportable action was taken.

Adjournment

There being no further business to come before the City Council, Housing Authority, Sanitation District Board, Lemon Grove Roadway Lighting District Board, and the Lemon Grove Successor Agency the meeting was adjourned at 8:50 p.m.

Susan Garcia

Susan Garcia, City Clerk